

Bruce Rauner
Governor



George H. Sheldon
Director

January 26, 2017

Michael Morisy
MuckRock
DEPT MR 31206
411A Highland Ave
Somerville, MA 02144-2516

Sent via email to: 31206-83324951@requests.muckrock.com

Dear Mr. Morisy:

I am writing in response to your Freedom of Information Act (FOIA) request, which was received by the Department of Children and Family Services (DCFS). You requested:

Records concerning the Department of Children and Family Services' use of the Eckerd Rapid Safety Feedback Software.

You requested a number of different types of documents and this response will address each area.

1. A copy of any privacy impact assessments, use policies, standard operating procedures, data retention policies, legal opinions, warranties, non-disclosure agreements, contracts, liability waivers, insurance agreements, Requests for Proposals, Responses to Requests for Proposal, Memorandums of Understanding, Letters of Interest, usage policies, or informal agreements that reference "the software" or otherwise guide its use or the relationship between this agency and the provider or developer of the software.

DCFS has attached the FY16 contract with Eckerd. The listed procurement method on this FY16 contract is as an exempt-grant. DCFS has also attached the FY17 contract with Eckerd. The listed procurement method on the FY17 contract is as a sole source procurement.

Office of Communications
100 W. Randolph St., Suite 6-100 • Chicago, Illinois 60601-3249
312-814-6847 • 312-814-7092 Fax
www.DCFS.illinois.gov

2. Any software and algorithms developed for the implementation of the program. I'm particularly interested in any algorithms that have a public policy outcome, such as providing guidance on a policy or an assessment of an individual. More generally, I would like any software that was developed by or with, given to, used by, purchased or licensed to this agency for implementation of the above referenced program. This would include original source code, any compiled binaries (also known as executables), spreadsheets, program scripts, and other digital materials used to calculate any data in the above program. It would also include the input training data for machine learning algorithms. Collectively, these responsive materials will be referred to as "the software" in the following paragraphs.

The requested software and algorithms are owned by Eckerd and are not the intellectual property of DCFS. The Freedom of Information Act specifically exempts trade secrets and the release of proprietary information and valuable formulae. This portion of your request is denied.

Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested. 5 ILCS 140/7(1)(g)

Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by any public body when disclosure could reasonable be expected to produce private gain or public loss. 5 ILCS 140/7(1)(i)

3. Any correspondence between any staff of the Illinois Department of Child and Family Services, including information technology staff, and any other organization or outside vendor, including but not limited to Casey Family Programs, Eckerd Kids, and Mindshare Technology, regarding the selection and implementation of the Eckerd Rapid Safety Feedback system. This includes correspondence in the form of emails, email attachments, paper letters, and any other form of correspondence.

Please be advised that DCFS deems your request to be unduly burdensome to the operations to the public body pursuant to 5 ILCS 140/3(g). This request is overly broad, categorical, and vague. A categorical request is patently unduly burdensome to the operation of the public body. *Shehadeh v. Madigan*, 2013 IL App (4th) 120742 (4th Dist. 2013) (finding plaintiff's FOIA request was patently broad on its face, as it sought *any* publication or record that would or could be used by *any* public body to comply with Illinois's FOIA provisions). Your request, as it is written, requires DCFS to review any number of records to determine whether they relate to the "Casey Family Programs, Eckerd Kids, and Mindshare Technology." You have also requested correspondence between this agency and "any other organization or outside vendor" for communication "regarding the selection an implementation of the Eckerd Rapid Safety

Feedback system". Such a review of records would require a tremendous expenditure in time and personnel hours. You are welcome to narrow and clarify your request to more manageable proportions by supplying the names of specific individuals or email addresses for correspondence with this agency. DCFS is willing to work with you to narrow your request.

4. All instructional materials, presentations and presentation materials (including recorded video and audio, PowerPoint files, prepared remarks, and slides formats), and other guidance on the use of "the software." This includes any notes taking during meetings that discussed the use of the software, any explanations (whether internally or externally generated) of how the software works, and any other document that has been used to help explain the use of "the software" to any party, including internal documentation, public relations materials, and executive summaries. This also includes any description of input and output data fields that will aid in understanding the type of information that is submitted to the software, and that is produced by the software.

Again, DCFS does not own any instructional materials related to the Eckerd Rapid Safety Feedback software. That material is owned and copyrighted by Eckerd. The Freedom of Information Act specifically exempts trade secrets and the release of proprietary information and valuable formulae. This portion of your request is denied.

Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested. 5 ILCS 140/7(1)(g)

Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss. 5 ILCS 140/7(1)(i)

5. A copy of any funding opportunity announcements, grant applications and grantor status/progress reports, reports to legislative bodies, annual reports that mention the use of the Software, as well as audit records, including but not limited to security audits of the software, misuse reports, and reports to oversight bodies.

DCFS has no responsive documents.

6. A copy of any validation studies conducted with respect to the program or with respect to any software or algorithms used in connection with the program, and a copy of any records pertaining to inquiries for the need of validation studies, or discussion of potential or actual validation studies. By "validation study," I mean any study designed to assess how accurate the program is in predicting what it is supposed to predict, or to assess whether the program may err in the direction of

either under- or overestimating likelihoods or predicted outcomes, or may produce any results that are biased or unexpected in any way.

DCFS has no responsive documents.

7. For the aspects of the software that require an input, for example, to compute a value, we request a copy of the five most recent sets of data that were used for input, as well as the five most recent outputs of the software, in whatever their native format is. If these inputs or outputs include exempt information, we ask that you exempt only that information which is specifically exempted from law, and provide the other material.

Your request asks for specific data regarding specific youth in care. This information is confidential under the Child Care Act and the Children and Family Services Act. This portion of your request is denied.

•**20 ILCS 505/35.1 (Children and Family Services Act)** ("The case and clinical records of patients in supervised facilities, wards of the department, children receiving or applying for child welfare services, persons receiving or applying for other services of the Department, and Department reports of injury or abuse to children shall not be open to the general public.")

•**225 ILCS 10/15 (Child Care Act of 1969)** ("All records regarding children and all facts learned about children and their relatives must be kept confidential both by the child care facility and by the Department.")

You do have a right to have your request reviewed by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General. 5 ILCS 140/9.5(a). You can file your Request for Review with the PAC by writing to:

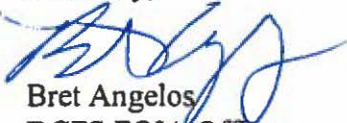
Public Access Counselor
Office of the Attorney General
500 South 2nd Street
Springfield, Illinois 62706
Fax: 217-782-1396
E-mail: publicaccess@atg.state.il.us

You also have the right to seek judicial review concerning your request by filing a lawsuit in the State circuit court. 5 ILCS 140/11.

If you choose to file a Request for Review with the PAC, you must do so within 60 calendar days of the date of this letter. 5 ILCS 140/9.5(a). Please note that you must include a copy of your original FOIA request and this letter when filing a Request for Review with the PAC.

Should you have additional questions please contact Veronica Resa, the DCFS Deputy Director of Communication, at 312-814-6847.

Sincerely,



Bret Angelos
DCFS FOIA Officer